

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1251 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

NIKUNJKUMAR N DESAI

Versus

STATE OF GUJARAT

Appearance:

MR MUKUND NAGARKAR for MR SN SHELAT for Petitioners
MR MA BUKHARI on instructions from MR HM BHAGAT for
Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/06/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. This case clearly exhibits that because of lack
of proper, practical and real approach on the part of the

Officers of the Government, unwarranted and avoidable litigations are coming up in this court. That is how the pendency is increasing. If the Officers have practical, real and justice oriented approach in the matters then I am confident that more than 30% of the cases may not come in the court. The State of Gujarat being the highest litigant in the State on its part, i.e. to say its Officers and servants more care and caution is desired. Be that as it may. A simple matter which otherwise would have been decided has come up in this court and it remained pending for all these years.

3. It is a case where the petitioner No.2 purchased 106 tress of Amba from the petitioner No.1 from lands bearing Survey Nos. 317, 302, 323. He applied to the Talati-cum-Secretary for necessary permission for felling trees under the provisions of Felling Trees (Infliction of Punishment) Act, 1951. This permission has been granted but the Forest Department Officers did not permit the petitioner to get the transit pass from them.

4. Learned counsel for the respondents submits that Talati-cum-Secretary has no jurisdiction to give transit pass to the petitioner for the forest product the trees, if the land wherefrom the trees are taken is within 10 kms. of reserved forest. In such a case, the power lies with the Forest Department to give such a permission. As per their case, the land of the petitioner No.1 is situated within 10 kms. of reserved forest and that permission granted by the Talati-cum-Secretary is not of any effect and benefit.

5. Learned counsel for the petitioner submits that those trees are still lying there as for want of transit pass the same could not be taken out.

6. If that is the position, I fail to see any justification in the approach of the Officers of the Forest Department to do all these things. They have to decide the application and pass appropriate order in accordance with law. Instead of doing all these things, they are acting in the way and the manner which creates manifold suspicion in the mind of the court.

7. In the result, this special civil application is disposed of in terms that Talati-cum-Secretary is directed to send the the application which has been submitted by the petitioner before it for grant of transit pass under the Act aforesaid, to the appropriate Officer of the Forest Department for passing order thereon. The Talati-cum-Secretary is to send this

application to the appropriate Officer of the Forest Department within a period of 15 days from the date of receipt of writ of this order and the Officer concerned shall pass the order thereon after hearing the petitioner within one month next. In case of any difficulty, liberty is granted to the petitioner for revival of this special civil application. The special civil application and Rule stand disposed of accordingly with no order as to costs.

zgs/-